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MORGAN & FINNEGAN, L.L.P.
3 WORLD FINANCIAL CENTER
NEW YORK, NY 10281-2101

In re Application of NOGUCHI et al
U.S. Application No.: 10/583,058
PCT Application No.: PCT/JP2004/018646
Int. Filing Date: 14 December 2004
Priority Date Claimed: 15 December 2003
Attorney Docket No.: 4439-4044
For: AKT ACTIVITY SPECIFICALLY
INHIBITING POLYPEPTIDE

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DECISION

This is in response to the "Response to Notice of Defective Response Mailed September 7, 2007 and Request to Withdraw or Vacate the Notification of Abandonment Erroneously Mailed September 14, 2007" filed 05 October 2007, which is being treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 14 December 2004, applicant filed international application PCT/JP2004/018646, which claimed priority of an earlier Japan application filed 15 December 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 23 June 2005. The thirty-month period for paying the basic national fee in the United States expired on 15 June 2006.

On 14 June 2006, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 25 October 2006, applicant filed executed declarations.

On 22 January 2007, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that the declaration filed 25 October 2006 is defective.

On 20 March 2007, applicant filed executed declarations.

On 24 April 2007, this Office mailed a communication which indicated that the declaration filed 20 March 2007 is defective.

On 10 May 2007, applicant filed executed declarations.

On 07 September 2007, the DO/EO/US mailed a Notification of Defective Response (Form PCT/DO/EO/916).

On 14 September 2007, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909).

05 October 2007, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

The given name of the third inventor is identified in the published international application as "Shin" whereas the given name of the third inventor is listed in the declaration as "Makoto".

MPEP 1893.01(e) states in relevant part,

[W]here the discrepancy between the name of the inventor indicated in the international application during the international phase and the name of the inventor as it appears in the oath or declaration submitted under 37 CFR 1.497 is the result of a typographical or transliteration error, then a petition under 37 CFR 1.182 will not be required. In such case, the Office should simply be notified of the error. Similarly, a typographical or transliteration error in the name of an inventor identified in a previously submitted oath or declaration may be corrected by simply notifying the Office of the error. A new oath or declaration is not required to correct such error. See MPEP 201.03 and 605.04(g).

The present petition states that the given name of the third inventor was incorrectly identified in the published international application due to a transliteration error. Therefore, the declaration filed 10 May 2007 is acceptable, and a new oath or declaration is not required.

Because the present petition was filed prior to the expiration of the time limit set by the Notification of Defective Response mailed 07 September 2007, the Notification of Abandonment was sent in error.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is GRANTED.

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 14 September 2007 is hereby VACATED.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459